

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN**

UNITED STATES OF AMERICA,

Plaintiff,

and

NATURAL RESOURCES DEFENSE  
COUNCIL, INC. AND SIERRA CLUB,

Intervenor-Plaintiffs,

v.

DTE ENERGY COMPANY AND  
DETROIT EDISON COMPANY,

Defendants.

Civil Action No.  
2:10-cv-13101-BAF-RSW

Judge Bernard A. Friedman

Magistrate Judge R. Steven Whalen

**DEFENDANTS' MOTION FOR LEAVE TO FILE EXHIBITS UNDER SEAL**

Pursuant to Local Rule 5.3(b), Paragraph 11 of the Court's Stipulated Protective Order Regarding Confidential Information and Documents (Doc. No. 39) and R18 of the Electronic Filing Policies and Procedures of this Court, Defendants DTE Energy Company and Detroit Edison Company (collectively, "Detroit Edison") respectfully move for leave to file the exhibits identified below, in support of their Memorandum in Support of Motion *In Limine* to Exclude the Opinions of Edward Rothman (Doc. No. 134).

Detroit Edison seeks to have Exhibit 3 (Expert Report of Phillip Hayet (Apr. 22, 2011)) and Exhibit 5 (Rebuttal and Supplemental Report of Phillip Hayet (July 5, 2011 revised)) filed under seal because they contain confidential information under the terms of the Court's Stipulated Protective Order Regarding Confidential Information and Documents (Doc. No. 39).

In addition, Detroit Edison seeks to have Exhibit 1 (Deposition Transcript of Edward Rothman (July 20, 2011)), Exhibit 2 (Expert Report of Edward D. Rothman (Apr. 22, 2011)) and Exhibit 6 (Surrebuttal Expert Report of Mike King (Aug. 1, 2011)) filed under seal because Detroit Edison considers information contained within those documents as confidential under the terms of the Court's Stipulated Protective Order Regarding Confidential Information and Documents (Doc. No. 39). Plaintiff and Intervenor-Plaintiffs consent to the relief sought in the Motion.

For the foregoing reasons, the undersigned respectfully requests that this Court grant Detroit Edison leave to file Exhibit 3 (Expert Report of Phillip Hayet (Apr. 22, 2011)), Exhibit 5 (Rebuttal and Supplemental Report of Phillip Hayet (July 5, 2011 revised)), Exhibit 1 (Deposition Transcript of Edward Rothman (July 20, 2011)) Exhibit 2 (Expert Report of Edward D. Rothman (Apr. 22, 2011)), and Exhibit 6 (Surrebuttal Expert Report of Mike King (Aug. 1, 2011)) in support of their Memorandum in Support of Motion *In Limine* to Exclude the Opinions of Edward Rothman.

Respectfully submitted, this 5th day of August, 2011.

By: /s/ Harry M. Johnson, III

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 5, 2011, the foregoing **DEFENDANTS' MOTION FOR LEAVE TO FILE EXHIBIT UNDER SEAL** was served electronically only on the following attorneys of record in accordance with an agreement reached among the parties:

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